

TEACHERS' RETIREMENT BOARD
BENEFITS AND SERVICES COMMITTEE

SUBJECT: Consent Agenda

ITEM NUMBER: 4

ATTACHMENT(S): 3

ACTION: X

DATE OF MEETING: December 6, 2001

INFORMATION:

PRESENTER(S): Lynda. Bridges/
Gail Chun-Deduonni

NAME: SYLVIA S. DUKE

HEARING DATE: SEPTEMBER 18, 2001

PROPOSED DECISION: Administrative Law Judge (ALJ) Timothy S. Thomas concluded by reason of the facts presented that Sylvia Duke's request for benefits from her retirement effective date of June 24, 2000 through July 31, 2000 be granted. The ALJ based his decision on the member's testimony and the presumption that CalSTRS received the member's retirement application in February 2000. Staff recommends that the Board adopt the proposed decision as it adequately reflects the issues and evidence presented at the hearing and the determination of the issue is adequately supported within the body of the decision..

NAME: KIM SHANE

HEARING DATE: SEPTEMBER 13, 2001

PROPOSED DECISION: Administrative Law Judge Carolyn Dee Magnuson concluded by reason of the facts and evidence submitted that Kim Shane's request to change his disability allowance benefit effective date from August 1, 1999 to March 1, 1999 be denied. The proposed decision upholds CalSTRS' decision, pursuant to Education Code 24005 (a)(3), to set the respondent's benefit effective date "[n]o earlier than either the first day of the month in which the application is received by the system's office in Sacramento". However, the member argued that exception should be granted him based on the statute's provision allowing for the determination of a different benefit effective date due to a state of "mental incompetence" that prevented him from submitting an application in a more timely manner. In her decision, the ALJ determined that the member's mental condition did not prevent him from completing his application in a timely manner and found his benefit effective date to have been properly set by CalSTRS. Staff recommends that the Board adopt the proposed decision upholding the August 1, 1999 benefit effective date with one technical change to the proposed decision. Under Government Code Section 11517(c)(2)(C) an agency may adopt a proposed decision and make technical or other minor changes in the proposed decision so long as the change does not affect the factual or legal basis of the decision. Accordingly, staff recommends that paragraph 4 on page 1 be stricken as a partial duplicate of paragraph 4 on page 2.

PROPOSED

**RESOLUTION
OF THE
TEACHERS' RETIREMENT BOARD
BENEFITS AND SERVICES COMMITTEE**

Subject: Consent Agenda
Consideration of Proposed Decisions

Resolution No. _____

WHEREAS, the Benefits and Services Committee has been delegated the authority by the Board to act finally on the following proposed decisions; and

Whereas the Committee has reviewed the following proposed decision: Sylvia S. Duke, Request for Retirement Benefits from June 24, 2000 through July 31, 2000; Accepted; and Kim Shane, Benefit Effective Date for Disability Allowance, Denied, and

WHEREAS, the Committee finds this in conformance with the guidelines adopted by the Board; Therefore be it

RESOLVED, That the proposed decision listed above are adopted.

Adopted by:
Benefits and Services Committee

On _____

JAMES D. MOSMAN
Chief Executive Officer